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**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

EDEN HOUSING MANAGEMENT, INC.,

Plaintiff/Petitioner,

vs.

JAMES KARIM MUHAMMAD,

Defendant/Respondent.

Case No.: C07-04325 SBA

**PLAINTIFF EDEN HOUSING
MANAGEMENT INC.'S EX PARTE
APPLICATION FOR ORDER
SHORTENING TIME FOR HEARING ON
MOTION FOR REMAND**

Action Removed to this Court:
August 22, 2007

Date: November 27, 2007
Time: 1:00 pm
Place: Courtroom 3, 3rd Floor
Judge: Hon. Saundra Brown Armstrong

Filed concurrently with:

1. Declaration of Nicole Hodge
 2. [proposed] Order.

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APPLICATION FOR RELIEF

Pursuant to Rule 6(d) of the Federal Rules of Civil Procedure and Civil Local Rules 6-3 and 7-10, Plaintiff and Petitioner Eden Housing Management (hereinafter “Petitioner”), hereby move to shorten time for consideration of their concurrently submitted Notice of Motion and Motion for Remand (collectively “Motion for Remand”). Petitioner seeks and expedited briefing and hearing schedule under which: 1) Respondent James Karim Muhammad (hereinafter “Respondent”) would file his Opposition to Petitioner’s Motion for Remand, if any, not later than November 19, 2007; 2) Petitioner would file its Reply to Respondent’s Opposition, if any, not later than November 21, 2007; and, 3) this Court would hear Petitioner’s Motion for Remand at 3:00 pm on November 29, 2007 before the currently scheduled case management conference in this matter, or as soon thereafter as this Court deems practicable

The Memorandum of Points and Authorities below and accompanying Declaration of Nicole D. Hodge establish good cause for this Motion.

MEMORANDUM OF POINTS AND AUTHORITIES

I. PROCEDURAL HISTORY

On August 9, 2007, Petitioner filed the Summons and Complaint for Unlawful Detainer against Respondent, for material breach of the lease agreement, whereby Respondent assaulted two members of Petitioner's property management staff. This lawsuit was originally filed in Contra Costa Superior Court, as limited civil case no. RS07-0943. Unlawful detainer actions are a summary remedy, and are given preference in trial setting pursuant to California Code of Civil Procedure §1179a. Before Respondent was served with said Summons and Complaint, he removed the case to District Court pursuant to 28 USC §1441. Following Respondent's service

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1 and receipt of his Answer, on September 12, 2007 Petitioner filed an Application, *ex parte*,
2 requesting that the matter be remanded back to Superior court for lack of subject matter
3 jurisdiction. To date here has been no ruling. The instant Motion for Remand will determine
4 whether this Court has subject matter jurisdiction over the Complaint for Unlawful Detainer. It is
5 Petitioner's contention that given the limited civil nature of the lawsuit for eviction, adjudication
6 falls under the exclusive jurisdiction of the state court. California Code of Civil Procedure §§
7 85(c)(4), 86(a)(4).

8 A swift and timely resolution on the Motion for Remand is essential to remediating the
9 ongoing harm to Petitioner, who continues to be deprived of possession of its rental premises as
10 well as the ability to collect any rents for said premises well beyond the time intended for
11 unlawful detainers to be resolved. In addition, both this Court as well as the Superior court
12 continue to incur unnecessary expenditure of judicial resources by having the matter pending in
13 both venues. As Petitioner has already had to defend an Order to Show Cause in state court for
14 failure to adjudicate the unlawful detainer within 45 days or less (which has been continued until
15 December 19, 2007), the expedited briefing and hearing schedule will avoid any further waste of
16 temporal and pecuniary resources for all involved. Finally, the expedited briefing schedule is no
17 different than that which would be afforded in any unlawful detainer action in State court, given
18 that a minimum five day notice period is legally appropriate in unlawful detainer actions. Given
19 the time sensitivities, the ongoing, unnecessary waste and the priority normally afforded cases of
20 this nature, an order shortening time for the hearing of the Motion for Remand is warranted.
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1 CONCLUSION
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3 For all the foregoing reasons, this Court should enter an order establishing an expedited
4 briefing and hearing schedule for Petitioner's Motion for Remand.
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6 Dated: November 13, 2007
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Respectfully submitted,

8 /s/Nicole Hodge
9 Nicole Hodge,
10 Attorney for Petitioner
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